

108TH CONGRESS  
1ST SESSION

# H. R. 1768

To amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2003

Mr. SENSENBRENNER (for himself, Mr. SMITH of Texas, and Mr. COBLE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Multidistrict Litigation  
5       Restoration Act of 2003”.

6       **SEC. 2. MULTIDISTRICT LITIGATION.**

7       Section 1407 of title 28, United States Code, is  
8       amended—

1           (1) in the third sentence of subsection (a), by  
 2           inserting “or ordered transferred to the transferee  
 3           or other district under subsection (i)” after “termi-  
 4           nated”; and

5           (2) by adding at the end the following new sub-  
 6           section:

7           “(i)(1) Subject to paragraph (2) and except as pro-  
 8           vided in subsection (j), any action transferred under this  
 9           section by the panel may be transferred for trial purposes,  
 10          by the judge or judges of the transferee district to whom  
 11          the action was assigned, to the transferee or other district  
 12          in the interest of justice and for the convenience of the  
 13          parties and witnesses.

14          “(2) Any action transferred for trial purposes under  
 15          paragraph (1) shall be remanded by the panel for the de-  
 16          termination of compensatory damages to the district court  
 17          from which it was transferred, unless the court to which  
 18          the action has been transferred for trial purposes also  
 19          finds, for the convenience of the parties and witnesses and  
 20          in the interests of justice, that the action should be re-  
 21          tained for the determination of compensatory damages.”.

22       **SEC. 3. TECHNICAL AMENDMENTS TO MULTIPARTY, MULTI-**  
 23       **FORM TRIAL JURISDICTION ACT OF 2002.**

24          (a) MULTIDISTRICT LITIGATION.—Section 1407 of  
 25          title 28, United States Code, as amended by section 2 of

1 this Act, is further amended by adding at the end the fol-  
2 lowing:

3       “(j)(1) In actions transferred under this section when  
4 jurisdiction is or could have been based, in whole or in  
5 part, on section 1369 of this title, the transferee district  
6 court may, notwithstanding any other provision of this  
7 section, retain actions so transferred for the determination  
8 of liability and punitive damages. An action retained for  
9 the determination of liability shall be remanded to the dis-  
10 trict court from which the action was transferred, or to  
11 the State court from which the action was removed, for  
12 the determination of damages, other than punitive dam-  
13 ages, unless the court finds, for the convenience of parties  
14 and witnesses and in the interest of justice, that the action  
15 should be retained for the determination of damages.

16       “(2) Any remand under paragraph (1) shall not be  
17 effective until 60 days after the transferee court has  
18 issued an order determining liability and has certified its  
19 intention to remand some or all of the transferred actions  
20 for the determination of damages. An appeal with respect  
21 to the liability determination and the choice of law deter-  
22 mination of the transferee court may be taken during that  
23 60-day period to the court of appeals with appellate juris-  
24 diction over the transferee court. In the event a party files  
25 such an appeal, the remand shall not be effective until the

1 appeal has been finally disposed of. Once the remand has  
2 become effective, the liability determination and the choice  
3 of law determination shall not be subject to further review  
4 by appeal or otherwise.

5 “(3) An appeal with respect to determination of puni-  
6 tive damages by the transferee court may be taken, during  
7 the 60-day period beginning on the date the order making  
8 the determination is issued, to the court of appeals with  
9 jurisdiction over the transferee court.

10 “(4) Any decision under this subsection concerning  
11 remand for the determination of damages shall not be re-  
12 viewable by appeal or otherwise.

13 “(5) Nothing in this subsection shall restrict the au-  
14 thority of the transferee court to transfer or dismiss an  
15 action on the ground of inconvenient forum.”.

16 (b) BASIS OF JURISDICTION.—Section 1369 of title  
17 28, United States Code, is amended in subsections (a) and  
18 (c)(4), by striking “75” and inserting “25”.

19 **SEC. 4. EFFECTIVE DATE.**

20 (a) SECTIONS 2 AND 3(b).— The amendments made  
21 by section 2 and section 3(b) shall apply to any civil action  
22 pending on or brought on or after the date of the enact-  
23 ment of this Act.

24 (b) SECTION 3(a).—The amendments made by sec-  
25 tion 3(a) shall be effective as if enacted in section

1 11020(b) of the Multiparty, Multiforum Trial Jurisdiction  
2 Act of 2002 (Public Law 107–273; 116 Stat. 1826 et  
3 seq.).

